

**UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND**

HELEN GEMMELL, and MEA MARTINEZ,

Plaintiffs,

V.

ERIC BEANE, in his official capacity as
Acting Director of the Rhode Island
Department of Human Services,

Defendant.

[illegible]

CA No.: 16-00650

STIPULATION AND ORDER OF SETTLEMENT OF PLAINTIFF'S FEES REQUEST

WHEREAS, this action was commenced by Plaintiffs pursuant to 42 U.S.C. § 1983 under the Due Process Clause of the Fourteenth Amendment of the United States Constitution and federal statutes and regulations;

WHEREAS, Defendant denies any and all claims of wrongdoing asserted in connection with Plaintiffs' complaint;

WHEREAS, no finding of liability has been made;

WHEREAS, this Court, on March 1, 2017 approved and So Ordered the Stipulation and Order of Settlement (“Settlement”) between the parties resolving the claims in this action;

WHEREAS, the Settlement provides at Paragraph 30 that:

Plaintiffs shall be entitled to recover their reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988. Within sixty (60) days of the Court's entry of this Order as an order of the Court, Plaintiffs shall file a bill of costs and motion for attorneys' fees and costs with the Court pursuant to 42 U.S.C. § 1988, unless such time is extended by agreement of the Parties or order of the Court or unless such motion is rendered unnecessary by agreement of the Parties. Prior to filing such motion, Plaintiffs shall present a bill of costs and fees to Defendant

and within fifteen (15) business days thereafter, or at such time as the Parties mutually agree upon, the Parties shall confer by telephone or in-person in a good faith effort to agree to an amount in settlement of fees and costs. If the Parties are unable to agree to a fee amount, Plaintiffs may file a motion for attorneys' fees and costs with the Court.

WHEREAS, the Parties wish to avoid the expense and disruption of litigation on the issues of plaintiffs' request for attorney's fees, and are prepared to settle their differences without admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY ORDERED, UPON THE STIPULATION AND AGREEMENT OF THE PARTIES, through their undersigned attorneys for the respective parties herein, that Plaintiffs' request for attorney's fees pursuant to 42 U.S.C. § 1988 is settled on the following terms and conditions:

1. Defendant shall, with forty-five (45) days of the entry of this Stipulation and Order of Settlement of Plaintiffs' Fees Request, pay plaintiff's attorneys, Roney & Labinger LLP and National Center for Law and Economic Justice, costs and attorneys' fees for legal services and expenses incurred through March 20, 2017, in the agreed-upon amounts of:

Roney & Labinger LLP: \$16,981.00 attorneys' fee + \$453.00 costs= \$17,434.00
NCLEJ: \$97,379.00 attorneys' fee + \$759.01 costs = \$98,138.01

2. The Court further finds that the sharing of the tribunal-approved award with the American Civil Liberties Union Foundation of Rhode Island and National Center for Law and Economic Justice is consistent with this Court's decision in *Inmates of the RI Training School v. Martinez*, 465 F.Supp.2d 131 (D.R.I. 2006), and Rhode Island R.P.C. 5.4(a)(4).¹

ENTERED as the Order of the Court this _____ day of _____, 2017.

¹ Defendant does not object to the inclusion of paragraph 2 in this Stipulation and Order but takes no position on its substance.

By Order,

Enter: _____
United States District Judge

Clerk

AGREED TO AS TO FORM AND SUBSTANCE:

/s/ Lynette Labinger
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Dated: April 27, 2017

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Dated: April 27, 2017

/s/ Greg Bass
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